

U.S. Appl. No. 10/718,050
Response and Amendment dated January 17, 2005
Reply to Office action of October 15, 2004
Page 5 of 6

REMARKS

Claims 1-8 and 10-13 stand provisionally rejected under the "judicially created doctrine of obviousness type double patenting" as being unpatentable over claims 1-11 of co-pending Application No. 10/782,581. The Official Office Action states that the '581 application recites the presence of an additional component comprising an inorganic oxide binder having deposited thereon at least one platinum group metal component, whereas the claims of the present application recite the presence of an additional component comprising an inorganic oxide binder. Applicants have cancelled Claims 7 and 8 which were directed to the optional inorganic binder. In light of the amendment, applicants respectfully request the provisional rejection promulgated under the judicially created doctrine of obviousness type double patenting be withdrawn.

Claims 1-13 stand rejected under 35 USC 101 as claiming the same invention as that of claims 1-26 of prior US Patent No. 6,706,659. The Official Office Action states that Claims 1 and 6 in the present application correspond to Claim 1 and 9 in US 6,706,659. Claims 2-5 in the present application correspond to claims 2-5 and 15-20 in US 6,706,659. Claims 7-13 in the present application correspond to claims 6-8, 10-13, and 22-25 in US 6,706,659. Claims 1 and 7 of the present application correspond to patent claims 14-21 in US 6,706,659 and claims 1 and 9 in the present application correspond to patent claim 26 in US 6,706,659. Applicants have cancelled claims 6, 7, 8, and 9 thereby curing the double patenting rejection. Applicants respectfully request the double patenting rejection promulgated under 35 USC 101 be withdrawn.

Claims 1, 4, 5, 9-11 and 13 stand rejected under 35 USC 102(e) as anticipated by US 6,359,179. Applicants traverse the rejection and assert that each and every element of applicants' claimed invention as amended is not taught in the cited reference. Specifically, the successful range of amounts of applicants' claimed first component which is selected from the group consisting of lutetium, ytterbium, thulium, erbium, holmium, terbium, combinations thereof, and yttrium is not taught or suggested in US 6,359,179, but is defined in applicants' amended Claim 1. Examiner has acknowledged that the reference fails to teach any amounts for the promoters. With the cited reference failing to teach a claimed feature of applicants' invention, applicants request that the rejection promulgated under 35 USC 102(e) be withdrawn.

U.S. Appln. No. 10/718,050
Response and Amendment dated January 17, 2005
Reply to Office action of October 15, 2004
Page 6 of 6

Claims 2, 3, 12, and 14-23 are rejected under 35 USC 103(a) as being unpatentable over US 6,359,179. As the US patent cited issued after the filing date of applicants' invention, the reference falls under 35 USC 102(e). It is noted that the cited reference, US 6,359,179, is commonly owned by the assignee of the present application and has at all times been so owned, including at the time the present invention was made. Evidence of common ownership can be found in the assignment for US 6,359,179 recorded at reel 11879 and frame 687 and the assignment for the present application which is recorded at reel number 14184 and frame number 292. Copies of both assignments are attached hereto. Consequently, the reference US 6,359,179 does not preclude patentability of applicants' invention under 35 USC 103(a). Applicants respectfully request the rejection promulgated under 35 USC 103(a) be withdrawn.

Accordingly, in view of the above amendments and remarks, this application is now believed to be in a condition for an allowance of all remaining claims and such action is respectfully requested.

Respectfully submitted,



Maryann Maas
Attorney for Applicants
Reg. No. 38,954
(847) 391-2137 (phone)
(847) 391-2387 (fax)